

1893-004 Chancery Causes: James E. Bungardner &c vs. Silas Bungardner &c
Lee Co.

Hawks

1 Plat

CA - Estate Dispute
T - Property

To the Hon. H. S. K. Morison, Judge of the
Circuit Court for the County

Your orators, M. L. Beaumgardner,
and James E. Beaumgardner, and your
Oratrix Hannah E. Beaumgardner humbly
complaining respectfully represents
unto your honor that John A. Beaum-
gardner on or about the day of Jan-
1893 departed this life intestate, but
seised and possessed of a good real
estate, ^{of some 170 acres} lying and being in Lee County, Va
on the head waters of Shavers Creek &
being the same land which said John
A. inherited from his fathers estate
& was deeded to him by his brothers
and sisters, which deed is of record
in the County Court Clerks office of
said County; that said John A. left
surviving him a widow, ^{Margaret Beaumgardner} and four chil-
dren your oratrix, & orator James E. Beaum-
gardner and Naomi and Silas Beaum-
gardner. The said John A. had two other
children, but they died before he
did, their names were Andrew
Beaumgardner, and Nora Hawks;
the said Andrew left surviving him
three children, to wit: Eliza, Mabel
and Pearl Beaumgardner; the said
Nora two children, to wit: Wesley and

Andrew Hawks. The said Naomah
& Silas Beaumgardner & the said
several children of Nora Hawks
and Andrew Beaumgardner dec'd are
each infants under the age of twenty-
one years.

Your complainants further
represent that the said real estate is, as
they believe, susceptible of partition
among the parties interested therein, but
if mistaken in this then they desire the
same sold and the proceeds divided
according to the respective rights of
all interested in the same; that the
infant children of said Andrew
Beaumgardner dec'd. are all non-
residents of this State, and that the
personal estate of said John A. is
sufficient to pay any and all in-
debtedness and liabilities against him.

Forasmuch therefore as your
complainants are remediless in the
premises save in a Court of equity
They pray that the said Naomah Beaum-
gardner, Silas Beaumgardner, Eliza, Pearl
and Mabelle Beaumgardners, and
Andrew and Wesley Hawks and Mar-
garet Beaumgardner be made parties
defendants to this bill and required to

their oaths to answer the same the in-
fants by guardian ad litem and the
adults, ~~if any~~ in their own proper
person; that a proper guardian ad
litem be appointed in this cause for
said infant-defendants who shall
also answer this bill on oath, that
proper process issue; that
an order of publication according
to law be made for said non-resi-
dent defendants; that said real estate
be divided among the said parties
entitled thereto, or else, in case it be
found indivisible in kind, that it
be sold and the proceeds divided; that
said Marguerite widow of said John
N. Beamingardner be assigned dower
out of said land; and that all such
other, further and general relief as in the
premises may be just and right may be
granted. And your Complainants well
ever pray &c.

Pennington & Givens
P. G.

Andrew Hawks. The said Naomah
& Silas Beaumgardner & the said
several children of Nora Hawks
and Andrew Beaumgardner dead are
each infants under the age of twenty-
one years.

Your complainants further
represent that the said real estate is, as
they believe, susceptible of partition
among the parties entitled thereto, but
if mistaken in this then they desire the
same sold and the proceeds divided
according to the respective rights of
all interested in the same; that the
infant children of said Andrew
Beaumgardner dead are all non-
residents of this State, and that the
personal estate of said John A. is
sufficient to pay any and all in-
debtedness and liabilities against him.

Forasmuch therefore as your
complainants are remediless in the
premises save in a Court of equity
they pray that the said Naomah Beaum-
gardner, Silas Beaumgardner, Eliza, Paul
and Mabelle Beaumgardners, and
Andrew and Wesley Hawks and Mar-
garet Beaumgardner be made parties
defendants to this bill and required to

James E. Benningard ^{et al}

vs } Bill de Chauncy

Silas Benningard ^{et al}1893 1st April Rules Bill
filed 3pa not executed
all defendants being
non residents & defaults." 2nd April Rules and
P. A. L. filed & Court
made Rules Court" 2 March Rules Case
set for hearing

" 11 by Plaintiffs

" June Decree for
partition & Court" Nov Decree final
O. B. 531

D. C. 8.10

" B. A. L. 5.00

M. C. 3.98

+ H. C. 2.50

S. 2.00

A. 15.00

Cours 42.00

Co C 3.44

82.02

James E. Baumgardner et al
against

Peffer 2
3 DuChesne

Silas Baumgardner et al Defts 3

To the Hon. W. S. W. Harrison
Judge of the Circuit Court for
Lee County Va.

The separate answer of
Eliza, Mabel, Pearl A. and James E.
Baumgardner, Infant heirs of Andrew
Baumgardner dead, Wesley Hawks,
and Andrew Hawks, Infant heirs
of Mariah Hawks's dead, and No-
mah Baumgardner and Silas
Baumgardner minor heirs of John
A. Baumgardner dead, all Infant
Defendants to a Bill filed in your
Honors Court on the Chancery side
thereof, under the above style, by
J. A. Hyatt their Guardian ad
litem, and for answer these
respondents by their said Guardian
for answer saith that he knows
no reason why the land sought
by the Bill to be partitioned, should
not be partitioned justly & equally
among the Coparceners according
to the prayer of the Bill, but is
inclined to believe that all rights
and interests held by infants in
real estate should be partitioned
and set apart to them and prop-

erly looked after by a Guardian,
properly appointed and under a good
bond - But if in this he is mistaken
this respondent places the rights of
his wards in your Honor's hands
where he knows they will be
protected. And now having
answered so far as he is advi-
sed is necessary for him to answer
and prays to be hence dismissed
with his reasonable costs.

J. A. S. Hyatt Guardian
ad litem.

Sworn to before me by J. A. S. Hyatt this
April 15th 1893. clerk

Jas. E. Baumgardner
vs
G. A. L.

Filed 2nd April 1893

J. A. S. Hyatt

G. A. L. fee \$5.00

James E. Beumgardner et al Compts
vs. } In Chancery
Silas Beumgardner et al Defts

This Cause came on a-
gain to be heard upon the papers
formerly read therein and the re-
port of Commr. Gate, Jas P. Beum-
gardner, Zion F. Holts and Jervis.
H. Daugherty filed ten days before
the first day of this term of the Court,
and the same being unexcepted
to, said report is hereby confirmed.
And it is adjudged ordered and
decreed that Margaret Beum-
gardner, widow, Take and hold for
her life as & for her dower the lot
of land described in said report and
shown on a plat accompanying said
within & within lines and within the
letters A, L, M, N, O, P, Q, R, S, T,
U, V, W, X, Y, Z, together with a free use
of the spring, house and corn. Crut
and Stake that are now on lot No. 5;
that Naomi Beumgardner Take &
hold in fee the lot shown on
said plat and described as lot No
One in said report; that Moraga C.
Beumgardner, Cora Mahala Beumgardner

and Pearl A. Beaumgardner take and hold jointly lot No. two shown on said plat and described in said report; That James E. Beaumgardner take and hold in fee simple lot No. three shown on said plat and described in said report; That Hannah E. Beaumgardner take and hold in fee simple lot No. four shown on said plat and described in said report; That Melvin J. Hawks and Andrew C. Hawks take and hold in fee simple jointly lot No. five shown on ^{said} plat and described in said report; and That Silas P. Beaumgardner take and hold in fee simple lot No. six described in said report and shown on said plat. It is further adjudged, ordered and decreed That the costs of this suit be divided in six equal parts and each of said last named six parties pay ~~each~~ one of said parts, and the Clerk of this Court will tax up said costs and execution may issue thereon, and the Clerk of this Court will transmit to the Clerk of the County Court of this

County copies of the order directing
said assignment and partition, and
said report and plat and this ~~case~~
the court confirming the same
to be thus recording in the proper
and book. And this case is
stricken from the docket.

Jas. E. Beatty admitted
vs } Green final

Silas Beatty admitted

Entered Ch. O.B. p 531
Nov. 15th 1893.

Recorded Deeds Book
No 21. Page 504

Enter this
Nov. 15th 1893
H. S. N. M.
—

James E. Baumgardner et al Comps ^{vs.} Silas Baumgardner et al Defs } In Chancery

This Cause came on this day to be heard upon the bill of the Complainants, and answer of the defendants who are all infants by J. A. G. Hyatt their guardian ad litem and replication thereto. On consideration of all which and for reasons appearing to the Court it is adjudged, ordered & decreed that John M. Pate, Jerry Laughery, Zion Hobbs and Peter H. Shelburn who are hereby appointed special commissioners for the purpose will go upon the lands in the bill & proceedings mentioned and partition the same among those entitled thereto. They will first assign to Margaret Baumgardner the widow of said deceased one-third of said land in rental value in and around the dwelling house of said deceased, And they will divide said land into six equal parts in value having due regard to wood water ways &c, and assign one of such

parts to each of the following
 named parties, who are heirs of
 said John A. Beaumgardner dec'd.;
 to wit: James E. Beaumgardner,
 Hannah E. Beaumgardner, Ma-
 omah Beaumgardner and Silas
 Beaumgardner, and also one
 share, to the three children of
 An Suo Beaumgardner to wit: Clay,
 Isabelle & Pearl Beaumgardner,
 and also one share to the two
 children of Nora Hawks to wit
 Hester and Andrew Hawks.
 And said Courts. will report their
 action to this Court until which
 time this cause is continued

James Beaumgardner et al

vs
 John A. & Hyatt

Silas Beaumgardner et al

Entered on Chy O. B. Page
 478 June 7th 1893

John A. & Hyatt

Recorded in Dist Book
 No 29, Page 501

J. V. Richardson

6182.00
 13.66

Enter this
 June 7th 1893

J. A. Hyatt

Virginia

At a Circuit Court Continued
and held for Lee County at the
Court House thereof June 7th 1893
James E. Banngardner et al ^{Plffs} vs
against ^{Def} Du Chey
Silas Banngardner et al ^{Defts}

It is adjudged ordered
and decreed that John M. Tate,
Jerry Daugherty, Zion Hobbs and
Petis. H. Shelburn, who are hereby
appointed Special Commissioners
for the purpose, will go upon
the lands in the Bill and proce-
dings mentioned, and partition
the same among those entitled
thereto. They will first assign
to Margaret Banngardner widow
of said decedent, one third
of said land, ^{in rental value} in and around the
dwelling house of said decedent, and
they will divide said land into
six equal parts in value, having
due regard to wood, water, way etc
and assign one of such parts to
each of the following named parties
who are heirs of said John H. Ban-
ngardner decd. to wit James E.
Banngardner, Hannah E. Banngardner
Nasimah Banngardner and Silas

Barrungardner, and also one share to the three children of Andrew Barrungardner to wit Elay, Peare and Mabel Barrungardner, and also one share to the two children of Nora Hawks, to wit Wesley and Andrew Hawks, and said Commissioners will report their action to this Court until which time this Cause is Continued

A Copy
 Teste J. A. S. Hyatt & Co

4 Copies

Jas. E. Barrungardner
 Copy of
 as recerution
 Partition

Silas Barrungardner

Executed June 25th 1853
 by delivering and affixing
 copy of the within
 Reces - to. John M.
 State Jans. Hoffa Reles
 W. Sheelbair and
 Henry Langherly.

S. E. Flanagan S. E. C.

4 p. 25

To Judge H. S. H. Morrison, Judge
 of the Circuit Court of Lee County
 Virginia. Pursuant to an order
 from your Honors court, issued
 June the 7th 1893. in the case of
 James E. Baumgardner et al. Plff.
 against } In Chancery.

Silas Baumgardner et al. Def.
 We the under Signed Commissioners
 went upon the lands in the bill mentioned
 and set forth in said order, and par-
 titioned the same, to those entitled
 thereto, as indicated in said order.

First- We found the following plat of land
 that was owned by Jno. A. Baumgardner
 at his death, which is shown by
 the accompanying plat.

Beginning at land, and on a poplar on a
 hill, on a line of W. A. Woods, and thence
 with his line, S. 48° W. 77 poles & 5 links,
 to a gum, on the west side of Shavers creek
 road, and thence with said road, N. 57½°
 W. 30 poles to a buck on the East bank of
 said Creek, thence on with Woods line,
 S. 32° E. 34 poles, crossing said Creek to a
 stake and pointing on a hill side. S. 33° W.
 183 poles, to a flattened rock, as a Roops
 corner, thence leaving said Woods line, and
 with said Roops line, N. 31½° W. 52 poles to a

Stake. N. 84° W. 44 poles to Three chestnuts
and two dogwoods, corner to Samuel Thomp-
son. and with his line, N. $60\frac{1}{2}^{\circ}$ E. 81 poles
to two dogwoods and whiteoaks near a
sink hole. Thence N. 3° E. $117\frac{3}{4}$ poles, with
Said Thompson's line, and Ezra Kroop's
crossing the road at 83 poles, to a granite
rock. Thence with said Kroop's line, and
Jeremiah Bayher's N. $75\frac{1}{4}^{\circ}$ E. 74 poles
to a cedar. S. 72° E. 94 poles to a dead oak.
Thence S. 60° E. $49\frac{1}{2}$ poles to the Beginning.
Containing one hundred and seventy
four acres.

Second - We then laid off the one third of
said Estate, including the buildings
where the Widow now lives, to Margaret
Baumgardner the Widow of the said J. A.
Baumgardner Dec. and shown on the
plat by a dotted line and bounded
as follows to wit - "A. S. M. N. O. P. Q. R. S. T. U. V. W. X. Y. Z. A.
Beginning On a granite rock shown on the
plat at A. Thence S. $42\frac{3}{4}^{\circ}$ W. 16 poles
to a poplar. S. 48° W. 87 poles to a stake,
on the S. W. Bank of the Shavers Fork
road. N. $57\frac{1}{4}^{\circ}$ W. 8 poles to a buck. Thence
up said creek and with said road. N. 63°
W. 30 poles. N. 89° W. 60 poles. N. 88° W. 14 poles
N. 61° W. $31\frac{1}{3}$ poles to where the original

Cine crosses the road, and on Liza Proops line, and with her line N. 3° E. 34 poles to a plantain rock. N. 75° $\frac{1}{4}$ E. 74 poles to a cedar. Thence S. 72° E. 94 poles to a cedar oak and thence S. 60° E. 21 poles to the Beginning. Containing 60 acres, and we also give to said lower the use of the Spring house, corn crib, and stable, that is now in use on Lot No. 5.

Third We then proceeded to divide the whole Estate so as to include the lower and shown on the plat by corresponding coloring to wit -

Lot No. 1 To Naoma Baumgardner shown on the plat colored blue, and No. 2. Marked to Naoma Baumgardner, and bounded as follows. -

Beginning On a stake on the south line of the original survey on a stake, at B. Thence S. 3° $\frac{1}{2}$ W. 8 poles to a plantain rock and Proops corner. Thence N. 31° $\frac{1}{2}$ W. 52 poles to a stake, N. 84° W. 44 poles, to three chestnuts, and two dogwoods. N. 60° $\frac{1}{2}$ E. 81 poles to a whitewash and two dogwoods near a sink hole. N. 3° E. 117° $\frac{1}{4}$ poles to a plantain rock N. 75° $\frac{1}{4}$ E. 28 poles to a stake. Thence S. 3° W. 54 poles to a stake. N. 61° W. 21 poles to a stake. Thence S. 3° W. 163 poles to the Beginning. This includes the lower interest and all

Containing 22 acres in the Estate.
and 8 acres in the dower.

Lot-No. 2 We assigned to Andrew Baumgardner
and his heirs - to wit - Morenza C. Cora
Mabel, and Pearl A. Baumgardner,
and shown on the plat tinged red
and in two parcels.

Beginning at - b. on the south line on a stake,
corner of Lot-No. 3 S. 53. W. 27 poles to B corner
of Lot-No. 1 and thence with the line thereof
N. 30. E 163 poles to a stake thence ^S 61 ^E 19 poles
to a stake corner of Lot No. 2 and thence
with a line thereof S. 30. W. 144 poles to the
Beginning - Containing 16 acres.

Second parcel which is in dower. Beginning
at - S. on the north line of the survey, thence
N. 75 1/4. ^E 26 poles to a stake thence S. 30. W.
61 poles to a stake thence N. 89. W. 26 poles
to a stake thence N. 30. E 34 poles to the
Beginning. Containing 9 acres.

Lot-No. 3. We assigned to James E. Baumgardner
and shown on the plat tinged light
blue, and in two parcels. First - in
the Estate Beginning at E. on the south
line S. 53. W. 24 poles to b. corner of Lot No. 2
and with a line thereof N. 30. E 144 poles to a
stake thence S. 89. E. 19 poles to a stake thence
S. 30. W. 129 poles to the Beginning Containing

15 acres. Second Lot in lower Beginning at H. corner of Lot-No. 2. Thence with a line Thence of S. 3° W. 61 poles to a stake S. 89° E 26 1/2 poles to a stake N. 3° E 65 poles to a stake Thence N. 72° W. 6 poles to a cedar. Thence S. 75 1/4° W. 20 poles to the Beginning. Containing 12 acres.

Lot-No. 4 We assign to Hannah E. Baumgardner and shown on the plat in two parcels tinged variegated. First- Beginning at G. on the South line Thence S. 53° W. 34 poles to E. corner of Lot No. 3 Thence with a line Thence of N. 3° E 129 poles to a stake Thence S. 89° E 14 poles to a stake Thence S. 3° E 107 poles to the Beginning. Containing 15 acres. Second Lot in lower. Beginning on the north line at H. Thence S. 3° W. 65 poles to a stake Thence S. 89° E 15 poles to a stake & 7 lines. N. 8° W 8 poles to a rock in the corner of the north side of the garden. N. 76° E 3 1/2 poles to a walnut. N. 20° E 47 poles to a stake on the north line and Thence with the same. N. 72° W. 36 poles to the Beginning. Containing 10 acres, and one half.

Lot-No. 5 We assign to Wesley T. Hawks and Andrew C. Hawks and shown on the plat tinged light red. and in two parcels Beginning at G. Thence S. 53° W. 50 poles to G. corner

of Lot No. 4. and with a line thence $N 3^{\circ} W 707$
poles to a stake thence $S 89^{\circ} E 42$ poles to a stake
thence $S 3^{\circ} E 76$ poles to the Beginning. Containing
22 acres. Second lot in the lower Beginning
at g. thence $S 20^{\circ} W 47$ poles to a walnut - at
the corner of the garden fence. $S 76^{\circ} W 5\frac{1}{2}$ poles to a
stake in the corner of the garden. thence with
the garden fence, and with a line of Lot No. 4.
 $S 8^{\circ} E 8$ poles to a stake. $S 89^{\circ} E 8$ poles to a stake.
 $S 53^{\circ} E 17$ poles to a stake. thence $N 20^{\circ} E 60$ poles
to a stake on the north line. thence with said
line $N 72^{\circ} W 23$ poles to the Beginning Containing
8 acres.

Lot No. 6. We assign to Silas P. Baumgardner, and shown
on the plat in three parcels tinged dark
blue. Beginning at h corner to Lot No. 5 and
and with a line thence $S 20^{\circ} W 60$ poles to a
stake. $N 53^{\circ} W 17$ poles to a stake. $S 3^{\circ} E 76$ poles
to g. on the south line, and thence with
said original line. $N 53^{\circ} E 47$ poles to a stake
 $N 32^{\circ} W 34$ poles to a buck. $N 57\frac{1}{4}^{\circ} E 30$ poles
to a gum, on the west bank of Shavers Creek
road. $N 48^{\circ} E 77$ poles to a poplar at hand.
thence $N 60^{\circ} W 29\frac{1}{2}$ poles to a dead oak and
passing the corner of Bower at A. thence
 $N 72^{\circ} W 29\frac{1}{2}$ poles to the Beginning. Containing
in the Estate 24 acres. and in the lower
13. acres. Surveyed Oct. the 17-18-19-20-+21-1893.

Respectfully Submitted
with the following bill
of costs

Jno. M. Tate 8 days \$ 20.00

J. P. Baumgardner 2 1/2 " 5.00

E. F. Hobbs 2 1/2 " 5.00

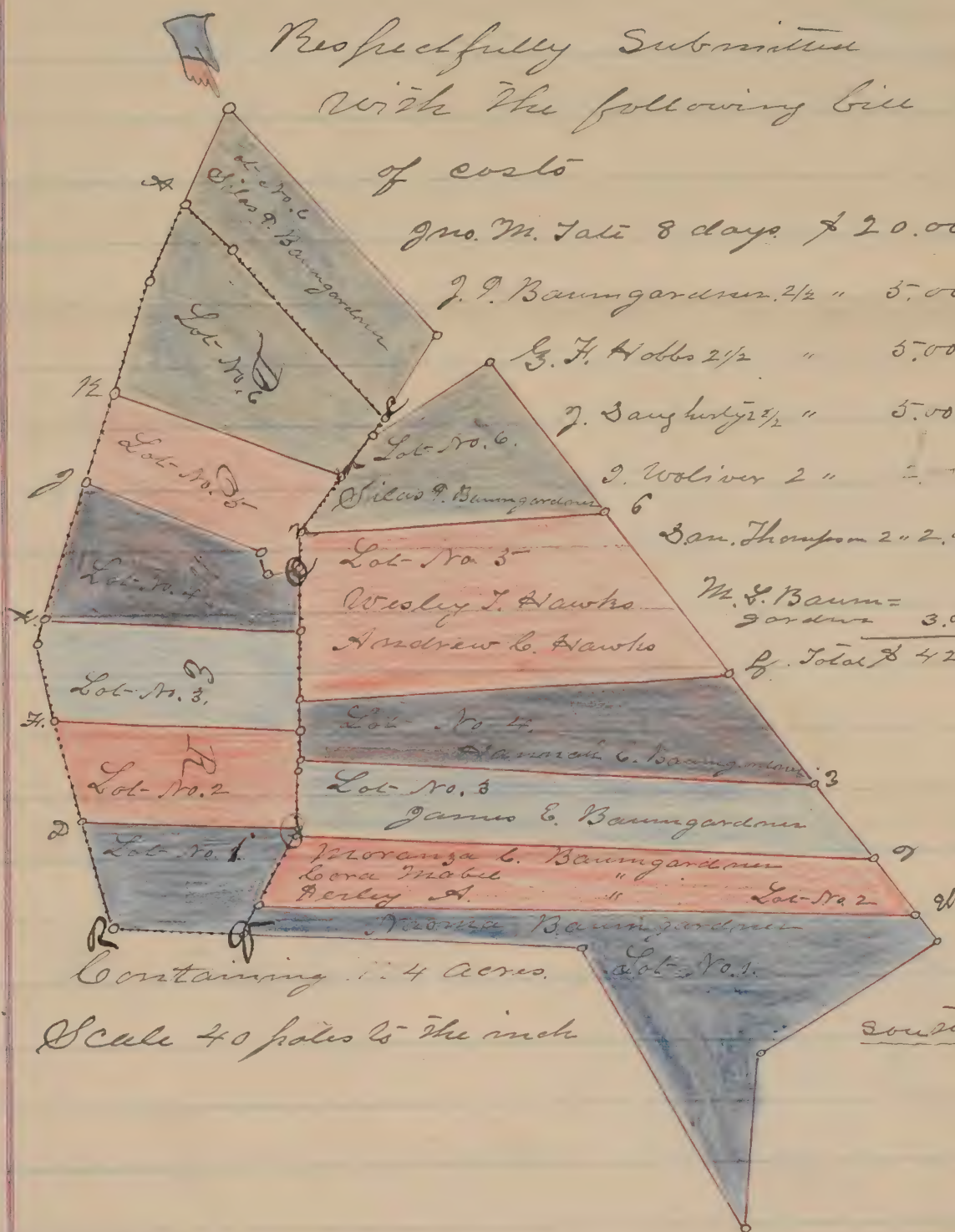
J. Sangherly 2 1/2 " 5.00

J. Woliver 2 " 2.00

Sam. Thompson 2 " 2.00

M. E. Baumgardner 3.00

By Total \$ 42.00



Jno. M. Tate Surveyor
James P. Baumgardner
E. F. Hobbs
Jeremiah Sangherly

James E. Baumgardner

vs } In Chancery
}

Silas A. Baumgardner

Commissioner's Report

Nov. Term 1893.

Filed October 30th 1893

A. B. Munsey

Recorded and Indexed

No. 2, Page 501

J. V. B. Richmond

Clerk

Comrs Fee \$42.00

- 1 { Hannah E. Beaugardner }
 { M. S. do } husband of
 2 Andrew Beaugardner dead
 baby " }
 Mailla " } infant of M. S.
 Pearly A. " } & child of
 A. B. - dead
 3 James E. " }
 4 Norah Hawks dead
 Harry " } infant of Norah
 Andrew " }
 5 Maomah Beaugardner (infant)
 6 Silas " (infant)

G. H. O.

Memoranda
for
Partition of
John A. Beauchamp
Land

The Commonwealth of Virginia.

TO THE SHERIFF OF LEE COUNTY GREETING:

We Command You to Summon

*Naomah Baumgardner, Silas
Baumgardner, Wesley Hawks, Andrew Hawks,
Clay Baumgardner, Mabel Baumgardner
Pearl a Baumgardner*

To appear at the Clerk's Office of the Circuit Court of Lee County, at the Courthouse on the first Monday in

April next, being rule day to answer a bill in Chancery exhibited in our said Court against

Theresa by *Naomah E. Baumgardner*
James E. Baumgardner & Marguerite
Baumgardner

And have then and there this writ Witness, J. A. G. Hyatt, Clerk of said Court at the Courthouse. This *24th*
day of *March* 18 *93* in the 11th year of the Commonwealth.

A Copy Teste

J. A. G. Hyatt
Clerk.

James E. Cunningham

Pres. ~~of~~ ^{to} Sparrow
Silas Cunningham et al

To 1st April 1893.

Did not leave
the office, all
defendants to being
in default.